

MAUREEN MCOWEN
JONATHAN REISCHL
TRACY L. HILMER
ALICIA FERRARA
LORRAINE VAN KIRK
(202) 435-9553
maureen.mcowen@cfpb.gov
jonathan.reischl@cfpb.gov
tracy.hilmer@cfpb.gov
alicia.ferrara@cfpb.gov
lorraine.vankirk@cfpb.gov
1700 G Street, NW
Washington, DC 20552

*Attorneys for Plaintiff Bureau of
Consumer Financial Protection*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

BUREAU OF CONSUMER FINANCIAL
PROTECTION,

Plaintiff,

v.

PROGREXION MARKETING, INC., *et al.*,

Defendants.

Case No. 2:19-cv-00298-BSJ

**DECLARATION OF ALICIA FERRARA IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNT I
AGAINST ALL DEFENDANTS**

I, Alicia Ferrara, declare and state as follows:

1. I am employed by the Bureau of Consumer Financial Protection (“Bureau”) as an Honors Attorney in the Office of Enforcement. I represent the Bureau in the above-captioned litigation.
2. I submit this declaration in support of the Bureau’s Motion for Partial Summary Judgment on Count I Against All Defendants (“Motion”).
3. The following are submitted as exhibits to the Bureau’s Motion and comprise the Bureau’s Appendix of Evidence.
4. Exhibit 1 is a true and correct copy of excerpts from the deposition of John C. Heath in this litigation on April 20, 2021.
5. Exhibit 2 is a true and correct copy of the document with the file name “Service Feature Matrix LLF7,” which was produced by Defendants in this litigation and marked as Exhibit 349 to the deposition of Progrexion Marketing in this litigation on May 5, 2021, through corporate designee Jesse Beal.
6. Exhibit 3 is a true and correct copy of excerpts from the deposition of Progrexion Teleservices in this litigation on May 11, 2021, through corporate designee Terry Kealamakia.
7. Exhibit 4 is a true and correct copy of DelPonti0000371, a screenshot of

Lexington Law's website that was produced by Defendants' expert John DelPonti in this litigation.

8. Exhibit 5 is a true and correct copy of PGX0028285, a screenshot of Lexington Law's website that was produced by Defendants in this litigation.
9. Exhibit 6 is a true and correct copy of PGX0028357, a screenshot of Lexington Law's website that was produced by Defendants in this litigation.
10. Exhibit 7 is a true and correct copy of PGX0002572, a presentation titled "Pricing Lexington Law," which was produced by Defendants in this litigation.
11. Exhibit 8 is a true and correct copy PGX0028796, a Lexington Law telemarketing script that was produced by Defendants in this litigation.
12. Exhibit 9 is a true and correct copy of PGX0028741, a Lexington Law telemarketing script that was produced by Defendants in this litigation.
13. Exhibit 10 is a true and correct copy of excerpts of the deposition of Progrexion Marketing in this litigation on May 5, 2021, through corporate designee Jesse Beal.
14. Exhibit 11 is a true and correct copy of LEX0000421, a Lexington Law customer agreement that was produced by Defendants in this litigation.
15. Exhibit 12 is a true and correct copy of Defendant John C. Heath, P.C.,

Attorney at Law, d/b/a Lexington Law's ("Heath") response to the Bureau's Interrogatory No. 3, dated April 7, 2021.

16. Exhibit 13 is a true and correct copy of a stipulation dated July 8, 2021 between the Bureau and Defendants Progexion Marketing, Progexion Teleservices, PGX Holdings, eFolks, and CreditRepair.com.
17. Exhibit 14 is a true and correct copy LEX00000028, the Amended and Restated Intellectual Property Licensing and Custom Software Hosting Services Agreement between Progexion IP and Heath, which was produced by Defendants in this litigation.
18. Exhibit 15 is a true and correct copy LEX00000001, the Amended and Restated Advertising and Marketing Agreement between Progexion Marketing and Heath, which was produced by Defendants in this litigation.
19. Exhibit 16 is a true and correct copy of PGX.CFPB.00000113, the Advertising, Marketing and Software Licensing Agreement between Progexion Marketing and CreditRepair.com, which was produced by Defendants during the Bureau's pre-suit investigation of this matter.
20. Exhibit 17 is a true and correct copy of a factual stipulation by Heath, dated April 8, 2021.
21. Exhibit 18 is a true and correct copy of excerpts of the deposition of

CreditRepair.com in this litigation on May 6, 2021, through corporate designee Jacob Hamilton.

22. Exhibit 19 is a true and correct copy of pages 1-14 of Intervenor FTC's Motion for Partial Summary Judgment in *Tennessee v. Lexington Law Firms*, No. 3-96-0344 (M.D. Tenn. Dec. 16, 1996).
23. Exhibit 20 is a true and correct copy of PGX0048433, Progrexion Teleservices's 2018 Delaware Telemarketing Registration Statement, which was produced by Defendants in this litigation.
24. Exhibit 21 is a true and correct copy the document titled "Creditrepair.com State Coverage," which was produced by Defendants in this litigation and marked as Exhibit 364 to the deposition of CreditRepair.com in this litigation on May 6, 2021 through corporate designee Jacob Hamilton.
25. Exhibit 22 is a true and correct copy of PGX0048184, CreditRepair.com's 2018 Utah Telemarketing Application, which was produced by Defendants in this litigation.
26. Exhibit 23 is a true and correct copy of PGX0028231, a screenshot from Lexington Law's website that was produced by Defendants in this litigation.
27. Exhibit 24 is a true and correct copy of DelPonti0000357, a screenshot from Lexington Law's website that was produced by Defendants' expert, John

DelPonti in this litigation.

28. Exhibit 25 is a true and correct copy of Heath's Supplemental Response to the Bureau's Request for Admission No. 4, dated July 6, 2021.
29. Exhibit 26 is a true and correct copy of the document with the file name "Service Feature Matrix CR," which was produced by Defendants in this litigation and marked as Exhibit 351 to the deposition of Progrexion Marketing in this litigation on May 5, 2021 through corporate designee Jesse Beal.
30. Exhibit 27 is a true and correct copy of PGX0000555, a presentation titled "Product Knowledge Product Training" that was produced by Defendants in this litigation.
31. Exhibit 28 is a true and correct copy of PGX0027706, a screenshot of CreditRepair.com's website that was produced by Defendants in this litigation.
32. Exhibit 29 is a true and correct copy of an excerpt from PGX0040984, the 2018 California Creative Audit for CreditRepair.com, which was produced by Defendants in this litigation.
33. Exhibit 30 is a true and correct copy of the Declaration of Jacob Lichtblau Regarding Lexington Law Ads and Webpages (Nov. 14, 2021) and

Attachments.

34. Exhibit 31 is a true and correct copy of PGX0028638, a CreditRepair.com telemarketing script that was produced by Defendants in this litigation.
35. Exhibit 32 is a true and correct copy of PGX0047444, a CreditRepair.com customer agreement produced by Defendants in this litigation.
36. Exhibit 33 is a true and correct copy of an excerpt from PGX0040901, the 2019 California Creative Report for Lexington Law, which was produced by Defendants in this litigation.
37. Exhibit 34 is a true and correct copy of CreditRepair.com's response to the Bureau's Interrogatory No. 2, dated April 7, 2021.
38. Exhibit 35 is a true and correct copy of CreditRepair.com's Supplemental Response to the Bureau's Request for Admission No. 1, dated July 6, 2021.
39. Exhibit 36 is a true and correct copy of excerpts from the deposition of eFolks in this litigation on May 10, 2021, through corporate designee Khang Nguyen.
40. Exhibit 37 is a true and correct copy of LEX00000066, the Amended and Restated Teleservices Outsourcing Agreement between Progrexion Teleservices and Heath, which was produced by Defendants in this litigation.

41. Exhibit 38 is a true and correct copy of PGX Holdings's Response to the Bureau's Interrogatory No. 15, dated May 14, 2021.

42. Exhibit 39 is a true and correct copy of Heath's response to the Bureau's Interrogatory No. 13, dated May 14, 2021.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 10, 2021.

/s/ Alicia Ferrara

ALICIA FERRARA

Enforcement Attorney

Bureau of Consumer Financial Protection

1700 G Street, NW

Washington, DC 20552

Telephone: (202) 435-9778

alicia.ferrara@cfpb.gov

*Attorney for Plaintiff Bureau of
Consumer Financial Protection*